

August 21, 2009

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
August 21, 2009

I. OPENING OF MEETING AT 11:23 A.M. AT 160 NORTH LASALLE STREET,  
SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, and Ares G. Dalianis (via telephone), Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Beckie Daniken, Commission Staff (via telephone); Anne McElroy, Roneta Taylor, Chris Griffin, and Bill Lipsmire, Illinois Department of Central Management Services (via telephone); Jan Oncken, Illinois Department of Central Management Services; Jessica Kimbrough, Governor's Office; Bridget Devlin, Illinois Department of Commerce and Economic Opportunity (via telephone); and Terry Larkin and Fred Baird, Illinois Department of Employment Security.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD JULY 17, 2009

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD JULY 17, 2009.**

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging .....	161.....	9
Agriculture .....	528.....	17
Arts Council.....	21.....	2
Capitol Development Board .....	44.....	0
Central Management Services .....	1,482.....	119
Children and Family Services .....	3,104.....	49
Civil Service Commission .....	4.....	0
Commerce & Economic Opportunity .....	440.....	70
Commerce Commission.....	72.....	0
Corrections.....	11,459.....	116
Criminal Justice Authority .....	56.....	6
Deaf and Hard of Hearing Comm. ....	7.....	1
Developmental Disabilities Council .....	10.....	1
Emergency Management Agency .....	98.....	6
Employment Security.....	1,862.....	25
Environmental Protection Agency .....	972.....	19
Financial & Professional Regulation .....	515.....	41
Gaming Board.....	78.....	6
Guardianship and Advocacy .....	108.....	8
Healthcare and Family Services.....	2,414.....	28
Historic Preservation Agency .....	313.....	12
Human Rights Commission .....	14.....	2
Human Rights Department .....	149.....	10
Human Services .....	14,028.....	77
Insurance.....	223.....	9
Investment Board.....	3.....	2
Juvenile Justice .....	1,175.....	20
Labor.....	79.....	7
Labor Relations Board Educational .....	12.....	2
Labor Relations Board State .....	19.....	2
Law Enforcement Training & Standards Bd.....	21.....	1
Medical District Commission .....	2.....	0
Military Affairs .....	126.....	3
Natural Resources .....	1,617.....	24
Pollution Control Board .....	19.....	2
Prisoner Review Board .....	20.....	0
Property Tax Appeal Board .....	24.....	1
Public Health.....	1,131.....	44
Racing Board .....	2.....	0
Revenue .....	2,021.....	64
State Fire Marshal .....	146.....	13
State Police .....	1,390.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems .....	81.....	2
Transportation.....	2,331.....	0
Veterans' Affairs.....	1,140.....	7
Workers' Compensation Commission .....	172.....	10
<b>TOTALS .....</b>	<b>49,699.....</b>	<b>844</b>

**B. Governing Rule - Jurisdiction B Exemptions**

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
  - 1. The Governor, or
  - 2. A departmental director or assistant director appointed by the Governor, or
  - 3. A board or commission appointed by the Governor, or
  - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
  - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
  - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
  - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
  
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
  - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
  - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
  - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

\* \* \*

**C. Request for 4d(3) Exemption Rescission**

- Regarding Items C1 and C2, Executive Director Daniel Stralka reported that these requests were to make permanent exemptions that the Commission granted 12 months ago, but only for a limited term of 12 months since the positions were under consideration for inclusion in a bargaining unit for Public Service Administrators. At that time, Commission staff – with the consent of the agency – had recommended a limited term exemption of 12 months which the Commission approved. Unfortunately, the bargaining unit status has yet to be clarified so Commission staff advised the agency that it was only willing to recommend an additional 12 month extension of the principal policy exemption. The agency agreed to this extension. Chairman Kolker inquired as to details about the agency’s position requesting permanent exemption for these positions regardless of their bargaining unit status. Executive Director Stralka explained that the agency representative informed him that it was the agency’s position that these positions qualified for exclusion from any bargaining unit but CMS Labor Relations was reluctant to petition for exclusion given the time involved and their track record in obtaining such exclusions. Chairman Kolker noted the apparent inconsistency with a position being principal policy exempt while not qualifying for an exclusion from a bargaining unit.

**IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO GRANT FOR A PERIOD OF 12 MONTHS THE 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:**

**C1. Illinois Emergency Management Agency**

Position Number	37015-50-17-000-00-03
Position Title	Public Service Administrator
Bureau/Division	Director’s Office
Functional Title	Senior Policy Advisor
Incumbent	Phil Anello
Supervisor	Director
Location	Sangamon County

**C2. Illinois Emergency Management Agency**

Position Number	37015-50-17-000-00-04
Position Title	Public Service Administrator
Bureau/Division	Director’s Office
Functional Title	Community Outreach Officer
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

Prior to addressing Items D1 through D32, Executive Director Stralka reviewed the process that occurred prior to their inclusion on the agenda. Since the Commission last reviewed a large group of positions for potential rescissions, Executive Director Stralka maintained a list of positions that, for various reasons, might be candidates for rescission of 4d(3) exemption. For these items, the major factor was that there appeared to be duplication with other 4d(3) exempt positions. After completing some initial research on these positions, on July 17, 2009 he sent out letters to all affected agency directors notifying them of which positions may be placed on this month's agenda for rescission and why. Notice was also provided to the Director of Central Management Services in accordance with Commission Rules. These notices included 45 positions. Since that time, there were many telephone calls, e-mail exchanges, and correspondence with agency representatives about these proposed rescissions. Many issues were resolved during this initial period with many of these positions so that when it came time to finalize the agenda only 32 positions were included for the Commission to consider if their 4d(3) exemption should be rescinded. These discussions continued to the point that as of August 21, 2009, there are only 29 positions being presented for consideration of rescission of exemption. Unless otherwise noted while discussing individual positions, these are all vacant. Executive Director Stralka noted as an aside, that out of the 800 plus exempt positions, over 200 are currently vacant. Chairman Kolker noted that this meant that 25% of all exempt positions were presently vacant.

- Regarding Items D1 through D32, Executive Director Stralka noted that on the Commissioners' Rescission List, there was a column marked "CSC Staff Recommendation." The entry that showed "Rescind – no objection" means that the agency conceded the rescission of the exemption. That does not mean that the agency agreed to it, only that the agency elected not to contest it. A second type of entry indicated "Rescind – no response" and means that despite the written notice to the agency and subsequent notifications to Central Management Services the agency had not responded and Staff still had not received any objection. It is Staff's interpretation of this silence to mean that the agency elected not to contest the rescission. Executive Director Stralka indicated these items would not be further addressed unless Commissions had questions. Anne McElroy then requested the Commission to continue any proposed rescission for any agency that failed to respond, noting that they have been busy with other matters related to potential layoffs and that a continuance would give them one additional notice of the proposed rescission. Chairman Kolker denied this request, noting that they have already received notice of the proposed action and that agencies can always reapply for the exemption. Commissioner Dalianis supported this position.

Executive Director Stralka also reminded all present that if the Commission approves the rescission of 4d(3) exempt status for any of these positions, it does not mean that the position is eliminated, only that the position is subject to the merit and fitness provisions of the Personnel Code and Rules. If a position has its exempt status rescinded and an agency subsequently decides that it believes

exemption is warranted, there is nothing that prevents it from making a new request for exemption next month.

Due to the time-consuming nature of this process, Executive Director Stralka requested that if the Commission were to continue any of these agenda items to a future date, that it be the November 2009 meeting. This would allow ample time to sort out any remaining discrepancies and is also the next planned potential group rescission. At this time, Anne McElroy requested that the Commission continue all 32 of these proposed rescissions until November's meeting. She noted that there are over 6000 EPAR requests presently pending, many of which are for vacant 4d(3) positions. Chairman Kolker responded that with 25% of 4d(3) positions vacant, it portrays a misleading image as to the number of exempt positions in government. Anne McElroy replied that even the current number represents 1% of all positions in the State. Chairman Kolker noted for her that the Commission is not considering rescinding the 4d(3) exemptions for 200 vacant positions today. He reiterated that having 25% of exempt positions vacant is excessive and misleading. Executive Director Stralka added that he inquired of all these agencies whether their fiscal year 2010 management plans included provisions for filling these positions, but none of the agencies responded to his request.

- Executive Director Stralka noted there are three groups that need further explanation. The first group is for the Illinois Department of Human Services, agenda items D24 through D26. Executive Director Stralka explained that he received an August 6, 2009 letter from Secretary Adams that provided overly simplistic justifications for retaining the exemptions on these positions. He responded by e-mail on August 12, 2009 indicating that the response was insufficient and requested additional information. The agency did not reply to that request. Commissioner Ewell indicated that he was in favor of continuing these requests until November since the agency at least had made some response.
- The second group is for the Illinois Department of Commerce and Economic Opportunity positions. The first group consists of Assistant Deputy Directors for a number of different programs – agenda items D12 through D16. Executive Director Stralka indicated to the agency that these positions have been vacant and inquired whether their management plan for fiscal year 2010 included utilizing these positions, i.e., can they afford them. Bridget Devlin, Human Resources Director, was present via telephone to explain the agency's position on retaining the exemption for these positions. She noted that Items D12, D14, and D15 had EPARs pending to fill these positions. Item D13 was filled. Item D16 was being filled and was important to securing additional federal stimulus money for the State. Chairman Kolker suggested continuing these items until November's meeting. As to Item D10, the Illinois Department of Commerce and Economic Opportunity indicated that there is a temporary appointment to this position, but nothing is reflected in the personnel system. Bridget Devlin advised the Commission that the agency was no longer contesting the rescission of this exemption.

- As to the Media Administrator positions, Items D2 through D5, Executive Director Stralka explained that he spent numerous hours going over the duplicate responsibilities of these positions – all of which have incumbents – with Central Management Services. Every time he received a clarified position description, it duplicated some other pre-existing Media Administrator. Central Management Services indicated they are in the process of reviewing and clarifying all the Illinois Office of Communication and Information positions, but are hampered by the lack of a Deputy Director – there is only an Acting Deputy Director at this time. Roneta Taylor confirmed the ongoing efforts to clarify the Office of Communication and Information’s position descriptions. Chairman Kolker suggested continuing these matters to allow Central Management Services to complete its clarifications and then have Commission staff audit all the Media Administrator positions to ensure that these employees are performing work consistent with their individual position descriptions.

**IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO RESCIND THE 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:**

**The following 4d(3) exemptions were rescinded on August 21, 2009:**

<b>Agenda Item</b>	<b>Agency</b>	<b>Position Number</b>	<b>Functional Title</b>
D1	CMS	00501-37-06-000-01-02	Legislative Liaison
D8	CMS	40070-37-80-200-00-01	Electronic Media Services
D9	CFS	13852-16-00-320-00-01	Legislative Liaison
D10	CEO	37015-42-00-000-02-01	Associate Executive Assistant
D11	CEO	37015-42-00-210-00-01	Legislative Liaison
D17	CEO	40070-42-80-000-05-01	Assistant Dep. Dir.-Homeland Security
D18	EPA	40070-46-00-000-00-04	Policy Advisor
D19	EPA	40070-46-30-200-00-01	Policy Advisor
D20	DES	40070-44-00-000-01-02	Human Resources Advisory Council
D21	HFS	40070-33-00-010-00-21	Deputy Director, Admin Operations
D22	HFS	40070-33-00-900-00-21	Deputy Director, Policy Coordination
D23	HFS	40070-33-70-100-00-61	Assistant CFO
D28	DOR	37015-25-04-100-00-01	Legislative Liaison
D29	SFM	37015-50-50-001-04-84	Hispanic Liaison
D31	ISP	40070-21-00-000-00-02	Chief Policy Advisor (Public Safety)
D32	WCC	40070-50-37-000-11-01	Legislative Liaison

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO CONTINUE TO NOVEMBER 20, 2009 THE 4D(3) EXEMPTION RESCISSIONS FOR THE FOLLOWING POSITIONS:**

**The following 4d(3) exemption rescissions were continued to November 20, 2009 on August 21, 2009:**

<b>Agenda Item</b>	<b>Agency</b>	<b>Position Number</b>	<b>Functional Title</b>
D2	CMS	40070-37-80-100-01-02	Media Administrator
D3	CMS	40070-37-80-100-01-05	Media Administrator
D4	CMS	40070-37-80-100-01-07	Media Administrator
D5	CMS	40070-37-80-100-01-08	Media Administrator
D7	CMS	40070-37-80-100-00-01	Statewide Media Relations
D12	CEO	40070-42-10-000-05-01	Asst. Dep. Dir.-Economic Dev.
D13	CEO	40070-42-25-000-05-01	Asst. Dep. Dir.-Tourism
D14	CEO	40070-42-50-000-05-01	Asst. Dep. Dir.-Community Dev.
D15	CEO	40070-42-60-000-05-01	Asst. Dep. Dir.-Tech & Industry
D16	CEO	40070-42-70-000-05-01	Asst. Dep. Dir.-Energy & Recycling
D24	DHS	40070-10-00-000-84-01	Executive Assistant to the Secretary
D25	DHS	40070-10-11-200-00-01	Chief, Recruitment & Selection
D26	DHS	40070-10-12-100-00-01	Special Management Assistant

No action was taken on Agenda Items D6, D27, and D30 so these exemptions continue in force and effect.

**V. CLASS SPECIFICATIONS**

**The following class titles were submitted for creation and revision by the Director of Central Management Services:**

**Position Titles:**

- A. Graphic Arts Technician (revise)
- Graphic Arts Designer (revise)
- Graphic Arts Designer Advanced (create)
- Graphic Arts Designer Supervisor (revise)

**Staff Analysis:** Assistant Executive Director Andrew Barris informed the Commissioners that the Commission staff had questions as to why this class specification revision was proposed in 2009 when the basis for the class specification – the Governor’s Executive

Order (Number 2) – occurred in 2004. Bill Lipsmire from Central Management Services addressed the Commissioners via telephone and explained that the Governor’s Executive Order required a re-organization which caused de-stabilization within the classes and there were additional responsibilities and training that was only partially completed. In addition, the wide range of duties of the current classes covering many different agencies - outside of the graphic arts duties specifically addressed in the previous classes, i.e., Administrative Assistant I, Executive I, Executive II, combined with the possibility of non-code positions engaging in the work described as being graphic arts related also delayed the class study and proposal until 2009. In sum, the need to revise the Graphic Arts Technician, Graphic Arts Designer, Administrative Assistant I, Executive I, Executive II and Graphic Arts Designer Supervisor classifications into four distinct and separate classes with specific duties tailored to meet the requirements of the Governor’s Executive Order was necessary. Therefore, the new and/or revised Graphic Arts Technician, Graphic Arts Designer, Graphic Arts Designer Advanced, and Graphic Arts Designer Supervisor classes were necessary to replace the six different classes that were being used to perform graphic arts duties. The creation and revision of these classes was approved by AFSCME.

Position Title:

B. Educational Diagnostician (create)

Staff Analysis: Assistant Executive Director Andrew Barris reported that, pursuant to Public Act 095-1021, employment under the Personnel Code was extended to a group of contractual employees providing educational services to the Department of Corrections and Juvenile Justice. The creation of the new class of Educational Diagnostician was necessary to achieve this end and provide support for Educators and School Psychologists. The creation of this class was approved by AFSCME. This classification is distinct from school district officials because it operates within the Department of Corrections and Juvenile Justice to assist with recordkeeping and the administration of standardized testing of “students in a school setting.”

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO APPROVE THE CREATION AND REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE SEPTEMBER 1, 2009.**

- A. Graphic Arts Technician (revise)  
Graphic Arts Designer (revise)  
Graphic Arts Designer Advanced (create)  
Graphic Arts Designer Supervisor (revise)
  
- B. Educational Diagnostician (create)

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**IT WAS MOVED BY COMMISSIONER DALIANIS SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.**

**VI. MOTION TO GO INTO EXECUTIVE SESSION**

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.**

<b>KOLKER</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>DALIANIS</b>	<b>YES</b>
<b>BUKRABA</b>			

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 12:30 p.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, and Ares G. Dalianis (via telephone), Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	6/30/09	<b>7/31/09</b>	7/31/08
Aging	0	<b>1</b>	0
Agriculture	1	<b>1</b>	2
Arts Council	0	<b>0</b>	1
Central Management Services	2	<b>1</b>	4
Children and Family Services	12	<b>11</b>	12
Criminal Justice Authority	1	<b>1</b>	0
Employment Security	6	<b>10</b>	7
Healthcare and Family Services	16	<b>12</b>	9
Historic Preservation	0	<b>1</b>	9
Human Services	1	<b>1</b>	4
Law Enforcement Training Standards Board	1	<b>0</b>	0
Natural Resources	15	<b>40</b>	26
Property Tax Appeal Board	2	<b>2</b>	1
Revenue	1	<b>0</b>	0
State Police	0	<b>0</b>	1
State Retirement Systems	0	<b>0</b>	1
Transportation	3	<b>2</b>	5
Veteran's Affairs	1	<b>1</b>	2
Workers' Compensation Commission	1	<b>0</b>	3
<b>Totals</b>	<b>63</b>	<b>84</b>	<b>87</b>

IX. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

• DISCHARGE

DA-33-09

Employee	James A. Calvin, Jr.	Appeal Date	4/22/09
Agency	DHS	Decision Date	8/10/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences; tardiness; unauthorized use of cell phone while on duty; dereliction of duty	Recommended Decision	Charges are proven and warrant discharge.

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 4-0, THE MOTION ADOPTED TO MODIFY AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE ARE PROVEN BUT WARRANT A 90-DAY SUSPENSION BECAUSE DISCHARGE IS EXCESSIVE DISCIPLINE FOR THE SECOND OFFENSE OF USING A PERSONAL CELL PHONE WHILE ON DUTY.**

<b>KOLKER</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>DALIANIS</b>	<b>YES</b>
<b>BUKRABA</b>			

• RULE VIOLATION

RV-26-09

Petitioner	Clara Simms-Johnson	Appeal Date	12/29/08
Agency	HFS	Decision Date	07/30/09
Type	Rule Violation	ALJ	Andrew Barris
Allegations	Violation of Section 302.781 of Personnel Rules and/or 20 ILCS 415/13(3)	Proposed Finding	Petitioner was obstructed from applying for a position at HFS in violation of 20 ILCS 415/13 (3).

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0, THE MOTION ADOPTED TO MODIFY AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSED FINDING IN THAT THE PETITIONER HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT VIOLATED THE PERSONNEL RULES AND/OR 20 ILCS 415/13 (3) BY DISSUADING THE PETITIONER FROM APPLYING FOR REINSTATEMENT AT THE ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES. ALTHOUGH THE EVIDENCE INDICATES THAT THE**

**PETITIONER AGREED TO RESIGN FROM HER POSITION AT THE ILLINOIS DEPARTMENT OF HUMAN SERVICES BY SEPTEMBER 30, 2008, THERE IS NO EVIDENCE THAT THE PETITIONER EVER SUBMITTED A RESIGNATION PER THAT AGREEMENT. THEREFORE, THE PETITIONER NEVER RESIGNED FROM HER POSITION AT THE ILLINOIS DEPARTMENT OF HUMAN SERVICES AND THE TERM USED TO CLASSIFY HER SEPARATION FROM THE DEPARTMENT AS BEING A “PROBATIONARY DISCHARGE” WAS ACCURATE AS STATED ON THE PERSONNEL TRANSACTION FORM AND/OR COMMUNICATED TO THE PETITIONER BY THE DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES.**

<b>KOLKER</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>DALIANIS</b>	<b>YES</b>
<b>BUKRABA</b>			

X. APPEALS DISPOSED OF WITHOUT DECISION ON THE MERITS

• **DISMISSED**

**RV-24-09**

Employee	Brian G. Smith	Appeal Date	12/23/08
Agency	HFS	Decision Date	07/14/09
Type	Rule Violation	ALJ	Andrew Barris
Allegation	Involuntarily reduced from Accountant Advanced to Accountant	Proposed Finding	Dismissed subject to Commission approval; withdrawn (settled).

**RV-36-09**

Petitioner	Kathy Jones	Appeal Date	5/14/09
Agency	DHS	Decision Date	7/14/09
Type	Rule Violation	ALJ	Andrew Barris
Allegation	Coded as not eligible for reinstatement for state employment	Proposed Finding	Dismissed subject to Commission approval; default (failure to file requested materials).

**DA-37-09**

Employee	William Schnidt	Appeal Date	5/17/09
Agency	DCFS	Decision Date	7/14/09
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming	Recommended Decision	Dismissed subject to Commission approval; withdrawn.

**GT-43-09**

Employee	Charles J. Rocek	Appeal Date	6/08/09
Agency	FPR	Decision Date	7/27/09
Type	Geographical Transfer	ALJ	Daniel Stralka
Allegation	Transferred from JRTC to Des Plaines	Recommended Decision	Dismissed subject to Commission approval; default (failure to provide contact number for telephone status conference).

**GT-48-09**

Employee	Marion Sirefman	Appeal Date	6/25/09
Agency	FPR	Decision Date	7/13/09
Type	Geographical Transfer	ALJ	Daniel Stralka
Allegation	Transferred from JRTC to Des Plaines	Recommended Decision	Dismissed subject to Commission approval; withdrawn.

**GT-51-09**

Employee	Eleni Markos	Appeal Date	6/26/09
Agency	FPR	Decision Date	7/13/09
Type	Geographical Transfer	ALJ	Daniel Stralka
Allegation	Transferred from JRTC to Des Plaines	Recommended Decision	Dismissed subject to Commission approval; withdrawn.

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGES' PROPOSED FINDINGS AND RECOMMENDED DECISIONS TO DISMISS THE APPEALS OF BRIAN SMITH, KATHY JONES, WILLIAM SCHNIDT, CHARLES ROCEK, MARION SIREFMAN, AND ELENI MARKOS.**

<b>KOLKER</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>DALIANIS</b>	<b>YES</b>
<b>BUKRABA</b>			

XI. AMENDMENT TO THE PERSONNEL RULES

Executive Director Daniel Stralka explained that this section was added to the Personnel Rules as an emergency rule to allow the State to reduce the cost of its operations while retaining valuable employees. Furlough programs must be approved by both the Director of Central Management Services as well as the Office of the Governor (through its Office of Management and Budget) before they may be implemented. This provision is not limited to the current fiscal year but may also be utilized in future years as financial conditions warrant, though the language of the proposed rule does not limit it to that only.

**Section 303.120 Furlough Program**

a) Definition

- 1) Furlough is a timekeeping status in which an employee is placed for a temporary period of leave without duties or pay because of conditions that require an agency to curtail its operations; a furlough program may be either voluntary or involuntary at the discretion of the agency head. Furlough is a tool to continue State services with minimal disruption and retain valuable employees at reduced cost. The employee's employment status shall not change because of the furlough. Furlough shall not change the employee's continuous or creditable service dates for the purpose of annual evaluations, retirement or longevity, the employee's health or life insurance coverage or the employee's accrual of vacation, sick or personal time. Employees on furlough shall not be at work or on standby or on-call duty and shall not perform State work during furlough time. Furlough shall not be used when permanent or temporary layoff or emergency shut-down is appropriate. Furlough shall not be used as a substitute for permanent part-time employment. Furlough shall not be a means or form of discipline. Employees on paid military leave or other unpaid leave shall not be scheduled for furlough during the leave and shall be scheduled upon return to work if the furlough program remains in effect. "Employee" includes less than full-time, full-time, intermittent, per diem, temporary, emergency and provisional employees.
- 2) Employees excluded, if any, from the furlough program shall be identified as "furlough-exempt." A uniform, narrow definition of "furlough-exempt" shall be applied throughout the furlough program by the agency head. Furlough-exempt employees may include employees:
  - A) in 24/7 facilities, to ensure adequate service delivery and staff coverage and who would have to be replaced at a higher cost than the costs saved through furlough;
  - B) who perform critical functions of the agency, or protect the safety and health of employees, clients or patients of the agency or the public;

- C) who are paid 100% by federal funds; and
  - D) who are in revenue-generating positions that generate more money than the costs that would be saved by furlough.
- b) Program Approval – An agency head, with prior approval from the Office of the Governor and the Director of Central management Services, may institute a furlough program. The agency shall provide advanced notification to affected employees as soon as practicable. An agency head shall indicate whether the furlough is for the entire agency or a designated division or program, the initial effective date of the program, the number of days that employees shall be on furlough and the end date of the furlough program. Agencies shall track which employees have taken furlough and the cost savings to the State.
- c) Furlough Time – Furlough time shall be scheduled in a manner that is consistent with the operating needs of the agency. Furlough may be taken in full or one-half day increments only and may be nonconsecutive. Employees on schedules with shortened workweeks shall take furlough time on a prorated basis. Sick time, vacation time, personal time, accumulated Holiday time, Earned Equivalent Time (EET), and compensatory time shall not be used to remain in pay status while on furlough. Taking a furlough day before or after a holiday shall not result in loss of pay for the holiday. Furlough time shall not count toward overtime. Conflicts regarding scheduling furlough time shall be resolved based first on the operational needs of the agency and second by continuous service date. All furlough time shall be pre-approved. Previously charged unpaid time (unexcused absence, unauthorized absence, excused absence or suspension time) shall not be used to meet an employee's furlough obligation. An agency shall not mandate that an employee take a furlough day on a holiday.
- d) Time Sheets – Furloughs shall be indicated by a daily entry of FD (Furlough Day) on an employee's time sheet.
- e) Furlough Time Value – The value of a furlough day is worth exactly the same amount of money regardless of the number of days in the pay period and is computed by dividing the annualized rate of pay by the total number of days in a work year as filed with the Department of Central Management Services. Regularly recurring items such as longevity pay, shift differential, bilingual pay, and other premium pay items that are paid each month, are included in determining the regular monthly rate. Agencies shall not use temporary or interim assignment pay to determine the value for employees on temporary or interim assignment. The value of the deducted day will be subtracted from the semi-monthly rate. Employees taking furlough on a day when their scheduled number of work hours varies from the employing agency's normal work schedule on that day are only required to furlough the number of hours in that employing agency's normal schedule. For example, an employee who is scheduled to work 10 hours on a furlough day in an agency with a normal work schedule of 7.5 hours, will furlough 7.5 hours and either work the remaining 2.5 hours or utilize benefit time (vacation, personal, accumulated Holiday, EET or

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compensatory time) for the remaining 2.5 hours that day. The value of such furloughed hours is determined by computing the annualized hourly rate (i.e., annual salary divided by the hours in a regular annual work schedule, 1957.5, for example) and deducting the number of furlough hours taken.

XII. REPORT ON THE TREATMENT OF PRIOR DISCIPLINARY INCIDENTS WHICH ARE THE SUBJECT OF PENDING GRIEVANCES

It was the consensus of the Commissioners that this matter be carried over until the September 18, 2009 meeting.

XIII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- All Commission employees will be required to take 12 furlough days during fiscal year 2010 (five days by the end of calendar year 2009 and seven days before June 30, 2010). This will result in 48 additional days off for the Commission's employees combined. He expressed concerns over maintaining adequate staffing on a daily basis with these additional absences.
- He met on August 13, 2009 with several Deputy General Counsels from the Governor's Office staff regarding the 4d(3) exemption process.

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, September 18, 2009 at 11:00 a.m. in the Commission's Chicago office.

XV. MOTION TO ADJOURN

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 12:35 P.M.**